

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS**CALIFORNIA CODE OF REGULATIONS**

**TITLE 8: Chapter 4, Subchapter 7, Article 93, Section 4920
of the General Industry Safety Orders**

Boom-Type Mobile Cranes**SUMMARY**

This rulemaking action was initiated as a result of a Division of Occupational Safety and Health (Division) Request for New, Or Change In Existing, Safety Order, Form 9 memorandum to the Occupational Safety and Health Standards Board (Board) dated August 14, 2001.

The Division's Form 9 request indicates that the language contained in General Industry Safety Orders (GISO) Section 4920 has caused confusion as to which cranes involved in railway or automobile wrecking are exempt from the requirements of Article 93. Specifically, it is not clear whether all cranes used in conjunction with railway and automobile wrecking operations are exempt from the requirements of Article 93 or just those cranes that are specifically dedicated to clear railway and/or automobile wreckage. New cranes entering the marketplace can be used for dual purposes. However, cranes used for both non-wreckage and wreckage applications are not exempt from Article 93. The Board staff agrees with the Division that the intent of Section 4920 and the American National Standards Institute(ANSI)/American Society of Mechanical Engineers (ASME) B30.5 mobile crane standard is to exclude only cranes that have only that one use on the jobsite; i.e., railway or automobile wreck clearance.

The proposed language is similar to the comparable Federal OSHA standard and the ANSI B30.5 –2000 mobile crane standard to the extent that the exclusion of use-specific railway and automobile wrecking cranes from the boom-type mobile crane standards is the same. The only modification to the federal language and Division's Form 9 is to further clarify that cranes that are excluded.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION**Section 4920. Purpose.**

This section explains to the employer that the orders contained in Article 93 are to apply to various types of mobile cranes including boom-type excavators and other modification of these types of equipment that retain their primary functional characteristics with the exception of

cranes of less than one ton or less lifting capacity. The existing language also exempts “railway and automotive wrecking cranes.”

An amendment is proposed to reword the text of Section 4920 to clarify that cranes designed and used exclusively for railway and/or automotive wreck clearance (e.g. tow truck crane) are excluded from having to comply with the requirements of Article 93. The proposed amendment is necessary to clearly indicate to the employer consistent with the intent of the Section that only cranes dedicated and designed for use to clear away railway and/or automotive wreckage are exempt from the provisions of Article 93.

DOCUMENTS RELIED UPON

1. Memorandum from the Division of Occupational Safety and Health dated August 14, 2001, to the Occupational Safety and Health Standards Board, Request for New, or Change in Existing, Safety Order, (Form 9)
2. ANSI/ASME B30.5-2000, Mobile and Locomotive Cranes, Chapter 5-0, Section 5-0.1

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action. Board staff is not aware of any state agencies who own and operate mobile boom-type cranes for use in automobile and/or railway wreckage clearance.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this standard does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed standard does not impose unique requirements on local governments. All employers - state, local, and private will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendment may affect small businesses.

ASSESSMENT

The adoption of the proposed amendment to this standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.